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October 24, 2005

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OFFICE OF THE SECRETARIAT

Via E-Mail

Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

**Re: Rule Certification. NYMEX Submission 05.182: Notification
of Amendments to COMEX Division Rule 104.36, Exchange for
Physicals.**

Dear Ms. Jean Webb:

The New York Mercantile Exchange ("NYMEX" or the "Exchange") is notifying the Commodity Futures Trading Commission ("CFTC" or "Commission") of amendments to COMEX Rule 104.36, Exchanges for Physicals.

Effective Wednesday, October 26, 2005, COMEX Rule 104.36 is amended to remove examples cited under the "Interpretation of EFPs" of non-permissible day-time EFPs. The removal of the examples does not change the meaning of the Rule, but addresses concerns that the Interpretation is unclear because it addresses only day-time EFPs. Pursuant to Section 5c(c) of the Commodity Exchange Act ("Act") and CFTC Rule 40.6, the Exchange hereby certifies that the attached rule amendment complies with the Act, including regulations under the Act.

Should you have any questions concerning the above, please contact me at (212) 299-2940.

Very truly yours,

Nancy M. Minett
Vice President, Compliance

cc: Thomas LaSala
Brian Regan

(Underlining in bold indicates additions; strikethroughs in bold indicate deletions.)

COMEX Rule 104.36, Exchanges for Physicals, and Associated Interpretation

Sections (a) through (g) remain unchanged.

Interpretation of the Governors Committee of Commodity Exchange, Inc. Regarding Exchanges of Futures for Physicals ("EFP")

Essential Elements and Other Indicia of a Bona Fide EFP – Remains unchanged.

Ownership of the Physical Commodity

Questions have arisen as to the permissibility of an EFP involving the transfer of a physical commodity in connection with the consummation of an additional cash commodity transaction offsetting the cash commodity component of the EFP. ~~**For example, a trader may purchase the cash commodity and upon condition that he can immediately resell it to the person from whom it was purchased in exchange for a long futures position (or, conversely, the trader may sell the cash commodity and repurchase it together with a short futures position) by means of an EFP. Alternatively, a trader may transact an EFP with one party as a condition to entering into a cash commodity transaction with another party, which will liquidate the cash commodity component of the EFP.**~~

Deleted: which is contingent upon

~~**The Board has determined to bar the use during COMEX trading hours of EFPs such as those described above as such activity appears to be undertaken with the primary intent of avoiding open and competitive trade execution when entering or exiting the futures market.**~~

Deleted: which involve contingent ownership of the cash commodity,

~~**Accordingly, n**~~No EFP which is linked to entry into a second, offsetting cash trade may be transacted during COMEX's business hours at any time that COMEX offers trading in its contracts, unless trading in a market is halted, such as during a physical emergency.

Deleted: or contingent upon

Recordkeeping – Remains Unchanged